IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8291 OF 2005

The State of Maharashtra and anr. ... Petitioners

Versus

Shashikant Dhondiram Karande ... Respondents

Mr.N.P. Deshpande, A.G.P. for Petitioners.

Mr. P.N. Chavan for Respondents.

CORAM : F.I. REBELLO &
DR.D.Y.CHANDRACHUD,JJ.
DATED : JANUARY 17, 2006

P.C.

. Rule. Heard forthwith.

. In the instant case, as per the record, it appears that the Respondent was arrested by Anti Corruption Bureau while accepting Rs.5,000/- from one Shri. Shindhi in the presence of panch witnesses. At the relevant time, he was holding the post of Assistant Police Inspector. A sanction has been granted to prosecute the Respondent and chargesheet has been filed in the special court vide Special Case No. 19 of 2005. The Respondent has been placed under suspension. The Respondent

approached Maharashtra Administrative Tribunal by filing Original Application No. 469 of 2005. Various earlier orders of M.A.T. were relied upon by the Respondents. The learned tribunal noted that various representations made by the Applicant have been rejected after they were placed before the Review Committee. The tribunal then proceeded to observe that the criminal case is likely to take some time to reach finality. The chargesheet is filed. There is no likelihood of applicant tampering the witnesses. Considering various earlier orders passed by the tribunal in similar cases, application deserves to be allowed. It is this order which is subject matter of the present petition.

. Similar other orders had come up before us out of which one is State of Maharashtra and anr. Vs. Raghunath Eknath Mundhe in Writ Petition No. 6313 of 2005 which was disposed of by order dated 30th September, 2005. We may gainfully reproduce the relevant paragraph from the said order :

. "There is no dispute that the chargesheet has been filed against the Petitioner. The question is whether courts and or Tribunal in the matter of suspension should interfere with the orders passed by the Disciplinary authority. In the normal course, it is the disciplinary authority who is the best Judge as to whether the person should be continued in suspension or not. If the delinquent is suspended, it is open to the disciplinary authority to review the order of suspension. In that context, the court can only exercise its powers of interference in a limited number of cases where it is shown that the decision to suspend is arbitrary and or is a mala fide exercise of power and or colourable exercise of power and or the State or the authorities are not able to explain the reasons for suspension when it is for a unduly long period and adequate reasons are not forthcoming for the order of suspension. These must be

> the parameters on which every authority including M.A.T. must consider whilst dealing with an order of suspension more so in the cases of delinquent employees who hold the sensitive posts under Police services and such other services. It is not for the courts including the tribunal to interfere with exercise of discretion by the disciplinary authority otherwise than in circumstances set out. We are coming across large number of matters, where the tribunal is interfering with the orders of suspension issued by the disciplinary authority merely on the ground that the chargesheet have not been issued and or that that some time has elapsed from the date of suspension. We must express our unhappiness with the approach of the tribunal in such matters."

. Considering the above, the impugned order is set aside.

. It is made clear that the Petitioners need not wait for the outcome of the criminal proceedings to commence and complete the disciplinary proceedings. If the Respondent is aggrieved, it is open for respondent to challenge the decision of the Petitioners. Petition disposed of.

(F.I. REBELLO,J.)

(DR. D.Y. CHANDRACHUD,J.)